IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

Tr.P(Crl.).No. 7 of 2007(A)

AGAINST THE ORDER DATED 08/12/2006 IN TP IN
CRMP.5370/2006 of D.C. & SESSIONS COURT,KOLLAM
SC.433/1999 of ADDL.SUB COURT,KOLLAM

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PETITIONER: 2ND ACCUSED

K.SANIL KUMAR, S/O.KUTTAN,
ADVOCATE, SANIL BHAVAN, CHERIAZHEEKAL,
KARUNAGAPPPALLY, KOLLAM.

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENTS: STATE AND ACCUSED

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. FELIX BABU, S/O.JOVOKYAN, ANNAS LAND,
KARITHURA, NEENDAKARA.

3. CHRISOPHER.D.COSTA, BLUE BELL,
VADAKKUMBHAGAOM, KOLLAM.

4. SATHEESH, S/O.JAMES, SATHEESH COTTAGE,
KARITHURA, NEENDAKARA.

5. DARKI, S/O.JOHN, CHERUPUSHPAM,
KARITHURA, NEENDAKARA.

6. FREDY, S/O.JEROME, THOPPIL KOCHU VEEDU,
PUTHENTHURA, CHAVARA.

7. DONAL, S/O.ANTONY, ELANJIKKAL,
VADAKKETHIL, KARITHURA, NEENDAKARA.

8. JACKSON, S/O.PETER SELVIA, MALIKA VEEDU,
KARITHURA, NEENDAKARA.

9. BLAISY, THOPPIL KOCHU VEEDU,
KARITHURA, NEENDAKARA.

10. MARY, D/O.POWLEENA, ELANJIKKAL VEEDU
OF KARITHURA, NEENDAKARA.

11. GRACY, W/O.HENRY, PUTHIYA VEEDU,
KARITHURA, NEENDAKARA.

12. SANTHOSH, S/O.JOVOKYAN,
ANNASLAND, KARRITHURA, NEENDAKARA.

13. LUCY, D/O.MARY,
EMILY COTTAGE, KARITHURA, NEENDAKARA.

14. CHRISTOPHER, S/O.KOCHICHAN,
THOPPIL KOCHU VEEDU, KARITHURA, NEENDAKARA.

15. NIXON, S/O.VINCENT, ALATHOOR VEEDU,
KARITHURA, NEENDAKARA.

16. EMILY, W/O.MARTIN SILVA, EMILY COTTAGE,
KARITHURA, NEENDAKARA.

17. SELIN, S/O.JOSEPH, THOPPIL KOCHUVEEDU,
KARITHURA, NEENDAKARA.

18. SEBASTIAN ROBERT, PUNNAMOOTTIL VEEDU,
KARITHURA, NEENDAKARA.

19. VAVACHAN, S/O.YOHANNAN, MANGALASSERI,
KARITHURA, NEENDAKARA.

20. ROBERT JAIN, PUNNAMOOTTIL,
KARITHURA, NEENDAKARA.

21. GREGARY XAVIER, THOPPIL KOCHU VEETTIL,
KARITHURA, NEENDAKARA.

22. JOSEPH SUNNY, FATHIMA VILLA,
KARITHURA, NEENDAKARA.

23. SEBRIYAN FRANCIS, ANU VILLA,
KARITHURA, NEENDAKUARA.

24. JOSEPH JOHN, CHERUPUZHPA MANDIRAM,
KARITHURA, NEENDAKARA.

25. REJI RAJ, S/O.FRANCIS, THARAYIL,
KARITHURA, NEENDAKARA.

26. FRANCIS FELIX, THARAYIL,
KARITHURA, NEENDAKARA.

27. JOSE, S/O.CIRIL, KARMALITHA, KARITHURA, NEENDAKARA.

28. LINAN, S/O.SEBASTIAN, PUNNAMOTTIL, KARITHURA, NEENDAKARA.

29. SEPRIAN CHRISTOPHER, EDAPARAMBIL, KARITHURA, NEENDAKARA.

30. BABU, S/O.SENAN, THOPPIL KOCHUVEETTIL, KARITHURA, NEENDAKARA.

31. JERRY, S/O.ANTONY, ELANJIKKAL VADAKKATHIL, KARITHURA, NEENDAKARA.

32. ANTONY TESSY, ELANJIKKAL, VADAKKATHIL, KARITHURA, NEENDAKARA.

33. GEORGE, STALIN, PUSHPAMANGALAM, KARITHURA, NEENDAKARA.

34. JOSEPH ANIL, EDAPARAMBIL, KARITHURA, NEENDAKARA.

35. JULIYAS FRANCIS, JASMIN BHAVAN, KARITHURA, NEENDAKARA.

36. SEBASTIAN AUGUSTIN, KOLASSERITHOPPIL, KARITHURA, NEENDAKARA.

37. AUGUSTIN, YESUDASAN, KOLASSERITHOPPIL, KARITHURA, NEENDAKARA.

38. BURNAD JOSEPH, CHERUPUSHPA BHAVAN, KARITHURA, NEENDAKARA.

39. JOSEPH ANTONY, CHRUPUSHPA BHAVAN, KARITHURA, NEENDAKARA.

40. VARGHESE CHRISTO, SUREKHA BHAVAN, KARITHURA, NEENDAKARA.

41. DAVID, S/O.AUGUSTIN, ROSE COTTAGE, KARITHURA, NEENDAKARA.

42. JOSEPH, S/O.AUGUSTIN, ROSE COTTAGE, KARITHURA, NEENDAKARA.

43. JOY, S/O.FRANCIS, JATHIN COTTAGE, KARITHURA, NEENDAKARA.

44. KUNJUMON, S/O.SKARIA, PUTHEN VEETTIL, KARITHURA, NEENDAKARA.

45. NIXON, S/O.FRANCIS, THOPPIL KOCHU VEETTIL, KARITHURA, NEENDAKARA.

46. SUNIL, S/O.FRANCIS, THOPPIL KOCHU VEEDU, KARITHURA, NEENDAKARA.

47. FRANCIS, S/O.GABRIEL, THOPPIL KOCHU VEEDU, KARITHURA, NEENDAKARA.

48. JOSE, S/O.AUGUSTIN, ROSE COTTAGE, KARITHURA, NEENDAKARA.

49. HENRY, S/O.GEORGE, ASSISSI LAND, KARITHURA, NEENDAKARA.

50. HENRY VARKEY, ASSISSI LAND, KARITHURA, NEENDAKARA.

51. BAIJU, S/O.LAWRENCE, KOCHU VEEDU, KARITHURA, NEENDAKARA.

52. PADMAKSI, W/O.GOPALAN, THOPPIL VEEDU, KARITHURA, NEENDAKARA.

53. PHILOMINA, W/O.JOHN, THOPPIL KOCHU VEEDU KARITHURA, NEENDAKARA.

54. JOHN, S/O.MARIYAN, THOPPIL KOCHU VEEDU, KARITHURA, NEENDAKARA.

55. ROSAMMA, W/O.MARIYAN, THOPPIL KOCHU VEEDU, KARITHURA, NEENDAKARA.

56. MIRANDI GEBRIEL, EDAPARAMBIL, KARITHURA, NEENDAKARA.

57. BAISY NETTO, S/O.JOSEPH, PRAVIN DALE, KARITHURA, NEENDAKARA.

58. ELIZABETH, W/O.LUIS, THOPPIL KOCHU VEETTIL, KARITHURA, NEENDAKARA.

59. PONNACHAN, MIRASINI, PUTHUSSERIL, KARITHURA, NEENDAKARA.

60. JOSE, S/O.JEROM, THOPPILKOCHU VEETTIL, KARITHURA, NEENDAKARA.

61. VAVACHAN, S/O.SEBASTIAN, KARITHURA, NEENDAKARA.

62. CHRISTY, S/O.ALEX, NADUCHEZHIKATHU, KARITHURA, NEENDAKARA.

63. VAVACHAN. S/O.SEBRIYAN, EDAPARAMBIL,
KRITHURA, NEENDAKARA.

64. CHRISTOPHER YOHANNAN,
S/O.SEBRIYAN, EDAPARAMBIL, KARITHURA,
NEENDAKARA.

65. SILVESTER, S/O.GABRIEL, ALBERT COTTAGE,
KARITHURA, NEENDAKARA.

66. JAMES, S/O.ALPHONSE, MANGALASSERI,
KARITHURA, NEENDAKARA.

67. SAJU, S/O. JAMES, MANGALASERI,
KARITHURA, NEENDAKARA.

68. EDWIN, S/O.CARLOSE, PUTHIYA VEEDU,
KARITHURA, NEENDAKARA.

69. KALISTER, S/O.VARGHESE, MANOJNIVAS,
KARITHURA, NEENDAKARA.

70. SALOMI, S/O.JOHN, SOPHIYA BHAVAN,
KARITHURA, NEENDAKARA.

71. BOSCO, S/O.FRANCIS, BRITTALAYAM,
KARITHURA, NEENDAKARA.

72. JAMES, S/O.GABRIEL, SATHEESH BHAVAN,
KARITHURA, NEENDAKARA.

73. SOLOMON, S/O.JAMES, SANTHOSH BHAVAN,
KARITHURA, NEENDAKARA.

74. FRANCIS, S/O.MARIYAN,
THOPPIL KOCHU VEEDU,
KARITHURA, NEENDAKARA.

75. THOMAS, S/O.MARIYAN,
THOPPIL KOCHU VEEDU,
KARITHURA, NEENDAKARA.

76. FRANCIS, S/O.JOSEPH, KARMALITHA HOUSE,
KARITHURA, NEENDAKARA.

77. JUSTIN, S/O.BABY, PUTHEN VEETTIL,
KARITHURA, NEENDAKARA.

78. SURA, S/O.SUNNI, MALIKA VEEDU,
KULANGARA, CHAVARA.

R1 BY PUBLIC PROSECUTOR SMT. LATHA

THIS TRANSFER PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 23/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Tr.P.(Cr.).No. 7 of 2007

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Dated this the 23rd day of January, 2007

O R D E R

The petitioner has come to this Court with a prayer that S.C.No. 433 of 1999 pending before the Addl. Asst. Sessions Court, Kollam, may be directed to be transferred to any other Court having jurisdiction at the same center. At the time when the accused were produced before the learned Magistrate, the present Addl. Asst. Sessions Judge, who was the Magistrate having jurisdiction, was alleged to have not discharged his duties properly. Prosecutions have been initiated for such inadequacy and in these circumstances the petitioner apprehends that holding of the trial before the learned Judge would prejudice his interests. The learned Sessions Judge, before whom an application for transfer was moved, did not consider the question on merits for the short reason that there was a time bound direction for disposal of the case.

2. Report of the learned Addl. Asst. Sessions Judge was called for. The learned Judge has also requested that the case may be transferred to some other court.

3. In the nature of the contentions raised and the response of the learned Judge, I am satisfied that this is a fit case where transfer can be directed as prayed for.

4. This petition is hence allowed. S.C.No.433 of 1999 on the file of the Addl. Asst. Sessions Court, Kollam is transferred to the Fast Track Court -I, Kollam. The learned Addl. Asst. Sessions Judge shall forthwith transmit the records to that Court and direct the parties to appear there on 12.2.2007. The learned Judge of the Fast Track Court shall expeditiously dispose of the case - at any rate within a period of three months from this date.

(R. BASANT)
Judge

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